

Frequently Asked Questions: Legal Issues

Issues arising under the school laws, other than special education, are generally heard and determined in the first instance by the Commissioner of Education. Alleged violations of the School Ethics Act are heard by the School Ethics Commission, and matters involving teaching staff member certification are heard by the State Board of Examiners.

School law matters, other than special education, are heard through a contested case process established by statute, N.J.S.A. 52:14B-1 et seq. (Administrative Procedure Act), for all State agencies. Generally speaking, although an agency head may hear a matter personally and individually, once a contested case is initiated, if facts are in dispute or legal issues are complex, the case is transmitted to the Office of Administrative Law. There an administrative law judge (ALJ) will conduct a hearing and issue a report called an "initial decision," recommending findings of fact and conclusions of law to the agency head transmitting the case. The agency head then makes the final decision in the matter, following review of the record and consideration of the parties' exceptions to the recommendations of the ALJ.

In most education cases, the Commissioner is the agency head who receives, transmits and decides the matter. However, in school ethics cases, the School Ethics Commission serves as agency head and makes the final determination as to whether the School Ethics Act has been violated. In these cases, the Commissioner's role is to review and make the final decision on the penalty recommended by the Commission for any violations found. For cases involving teacher certification, the State Board of Examiners generally acts as agency head.

Prior to enactment of P.L. 2008, c. 36 on July 7, 2008, appeals from final decisions of the Commissioner, the School Ethics Commission and certain decisions of the State Board of Examiners were heard and decided by the State Board of Education, which issued a final administrative agency decision appealable to the Appellate Division of the Superior Court. As of July 7, 2008, decisions of the School Ethics Commission finding a violation of the School Ethics Act and all decisions of the State Board of Examiners are appealable to the Commissioner, whose decision constitutes final agency action appealable to the Superior Court, Appellate Division, pursuant to the *Rules Governing the Courts of the State of New Jersey*, R. 2:2-3.